

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**05-CR-232-S**

v.

**DECISION & ORDER**

MOHAMED BAHAA EL DIN HAMDY,

Defendant.

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**PROCEDURAL HISTORY**

On July 27, 2005, the defendant, Mohamed Bahaa El Din Hamdy, was arrested in the Central District of California on a Complaint signed by Magistrate Judge Leslie G. Foschio. Thereafter, he was ordered removed to this district. Mr. Hamdy made his first appearance in this district before Magistrate Judge Foschio on August 23, 2005.

On August 25, 2005, upon motion of the government, a detention hearing was held before Magistrate Judge Foschio. Thereafter, Magistrate Judge Foschio ordered Mr. Hamdy detained based on risk of flight (*see Order*, Dkt. #6). Mr. Hamdy appealed the Magistrate Judge's *Decision and Order* on detention to this Court. On October 14, 2005, after briefing and oral argument, this Court affirmed the Magistrate Judge's decision to detain based on risk of flight.

On November 2, 2005, the parties again appeared before this Court at the final pretrial conference. At that time, several changes in Mr. Hamdy's circumstances were brought to the Court's attention and he renewed his motion to have bail set. The government concurred in the defendant's request.

### **CHANGE IN CIRCUMSTANCE**

Since the time of the government's initial motion to detain and this Court's affirmation of the detention order, Mr. Hamdy's circumstances have changed. These changes, as agreed upon and stipulated to by the defense and government, are as follows:

1. There is now a surety available to post \$5,000 United States currency;
2. Mr. Hamdy does have a stable residence. He will remain in Buffalo, New York, and will reside at 1292 Bailey Avenue, Buffalo, New York 14206, with his friends Haidera and Sarah al-Asadi;
3. Mr. Hamdy has employment opportunities in Buffalo, New York;
4. Defense counsel has possession of Mr. Hamdy's passport and is prepared to surrender it to the Clerk of the Court as a condition of his release;
5. Disclosure of what the defense believes to *Brady* material; and
6. Clarification that Mr. Hamdy is a lawful, permanent resident, with a green card that is valid until 2014. As such, he has a vested interest in returning to court and seeing this matter through to the end.

### **RELEASE OF DEFENDANT PENDING TRIAL**

Having reviewed this change in circumstances stipulated to by the parties, the Court concludes that there are conditions of release that can be set by this Court to ensure the defendant's continued presence at the trial of this matter. See 18 U.S.C. § 3142(c).

Defendant is released, subject to conditions on the attached Form AO-199, which include, but are not limited to the following:

1. the defendant and the surety shall execute a bail bond in the amount of \$5,000 to be fully secured by \$5,000 United States currency;
2. the defendant shall report to Pretrial Services immediately upon release and as directed thereafter;

3. the defendant shall seek and maintain employment;
4. the defendant shall surrender any passport to the Clerk of the Court;
5. the defendant shall not obtain a new passport;
6. the defendant's travel is restricted to the Western District of New York;
7. the defendant shall maintain a verifiable address;
8. the defendant shall report to Pretrial Services immediately upon release and at a minimum of once every two weeks thereafter;
9. the defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed; and
10. the defendant shall not commit any crime, federal, state or local.

**SO ORDERED.**

/s/William M. Skretny  
HONORABLE WILLIAM M. SKRETNY  
United States District Judge

DATED: 11/4/2005  
Buffalo, New York